

## CHILD SUPPORT - FREQUENTLY ASKED QUESTIONS (FAQ'S)

### **Q. How is paternity established?**

**A.** There are several ways that paternity may be established. A brief explanation of each of them is listed below. If you have questions about any method, or need help to determine which may best meet your needs, you may contact the Child Support office or legal counsel.

Hospital-Based Paternity: North Carolina provides the opportunity for a father to acknowledge paternity at the time of a child's birth. This is a simple procedure whereby parents sign the Affidavit of Parentage form in the hospital. This allows the father's name to be placed on the birth certificate, and also serves as a legal acknowledgment of paternity. Paternity may be established by signing this affidavit if:

- the mother was unmarried when she became pregnant or when the child was born, and
- the father is willing to sign an affidavit stating that he is the father of the child.

This Affidavit of Parentage is filed with the State Registrar (Vital Records) and legally declares the paternity of your child.

Voluntary Acknowledgment of Paternity: If you did not establish paternity at the time of birth, you may choose to do so at a later date. The mother and father sign documents acknowledging they are the parents of a child. These signed statements are presented to the court and an Order of Paternity is entered. This legally establishes paternity for a child.

Genetic Testing: If there are any doubts regarding the paternity of a child, you should not sign any paternity declaration documents. Genetic tests can be performed to determine the paternity of a child. These tests will show that a man is not the father of a child or indicates the probability that he is the child's father. The test results provide reliable information to aid parents and judges in parentage determinations.

Court-Ordered Paternity Establishment: If the parents do not agree to voluntarily establish paternity, legal action may be filed with the court to establish paternity for a child. After all evidence is presented, a judge will decide if paternity should be ordered.

### **Q. Do we need to establish paternity now?**

**A.** Yes. Although the relationship between the mother and father may be good now, things may change in the future. You should also consider the possibility that something could happen to the father. It's always best to resolve the paternity issue as soon as possible to protect your child's future.

### **Q. How are legal child support obligations established?**

**A.** Legal child support obligations are established by the court and are based on the needs of the child and parents' ability to provide support. Mandatory guidelines are used in the North Carolina Child Support Enforcement Program in order to compute a child support obligation based on the combined gross income of the custodial and non-custodial parent. The absent parent(s) may either voluntarily agree to an amount of support, or the obligation can be established through court proceedings.

### **Q. How are child support obligations collected?**

**A.** The Child Support Enforcement Agency will decide on the best way to collect the child support ordered to be paid by the absent parent. All new or modified child support orders must contain a provision for income withholding to take effect immediately. If this is not possible, the local child

support enforcement agency is responsible for any follow-up action that may include court proceedings and the interception of the absent parent's state and/or federal income tax refunds.

**Q. How are child support obligations enforced?**

**A.** When a parent refuses to pay court-ordered child support or does not pay the full amount, the child support enforcement agency may do one or more of the following:

- **Request immediate wage withholding**
- **Refer the case for intercept of federal and state income tax refunds**
- **File a lien on real or personal property**
- **Refer the past-due support debt to credit reporting agencies**
- **Request the suspension or revocation of a professional license or a driver's licenses**
- **File a contempt of court action**

Federal law requires state child support enforcement agencies to initiate income withholding, in order to ensure that parents obligated to pay support meet this obligation. Previous legislation allowed income withholding only at the time payments became delinquent in an amount equal to one month's support or at the request of the obligated parent. In 1989 the North Carolina Legislature revised the income withholding law to allow for immediate income withholding in orders for child support entered or modified on or beginning October 1, 1989. In the event income withholding cannot be established immediately, the obligated parent would be subject to income withholding under any of the following circumstances:

- **Being delinquent by as much as one month's support**
- **Upon request of the obligated parent**
- **Upon request of the custodial parent or guardian of the child**

**Q. What is the maximum amount that can be withheld each pay period from the obligated parent's wages?**

**A.** Under no circumstances can the percentage of disposable income withheld for child support exceed the following:

- 40 percent of disposable income when only one support order exists.
- 45 percent of disposable income when multiple support orders exist and the obligated parent is supporting a spouse or other children.
- 50 percent of disposable income when multiple support orders exist and the obligated parent is not supporting a spouse or other children.

**Q. What is meant by disposable income?**

**A.** Disposable income is that amount which remains after deductions for federal, state and local taxes, Social Security and involuntary retirement contributions.

**Q. What if the obligated parent asks the employer to change the amount of withholding?**

**A.** Often support obligations are modified by the courts, arrearage amounts are reduced or other circumstances in a particular case may change so that revisions in the amount of withholding could occur. However, neither the obligated parent nor the employer may make changes in the withholding amount. If changes become necessary, you will be notified by the agency that sent the notice to the employer. If an obligated parent has questions, they should contact their child support enforcement agency.

**Q. What happens if the obligated parent terminates employment?**

**A.** The employer must notify in writing the child support agency that sent the income withholding notice, the date of termination, last known address of the obligated parent, and the name of his new employer, if known.

**Q. What if I have more questions regarding the child support income withholding law in North Carolina?**

**A.** You should contact the closest child support enforcement agency or call the [State of North Carolina Child Support Enforcement Office](#) at 1-800-662-7030.

**Q. What about visitation and custody issues?**

**A.** Issues concerning custody and visitation are a separate issue and not a part of the child support process.

**Out of State Parents**

If the parent lives in another state, a court action will be initiated in Montgomery County and forwarded through the other state's central registry to the child support authority in the jurisdiction where the absent parent resides. That office will then bring the absent parent before the local court to request that a child support order be entered. The court in the other state has the authority to set the amount of the order.

Federal law requires all states to provide location, establishment and enforcement services. North Carolina has adopted the Uniform Interstate Family Support Act (UIFSA) repealing the Uniform Reciprocal Enforcement of Support Act (URES). UIFSA unlike URES creates a structure designed to provide for only one support order at a time called the controlling order. In cases where multiple orders exist, UIFSA provides rules to determine the controlling order. Underlying this structure is the principle of Continuing Exclusive Jurisdiction, or CEJ.

Under UIFSA, as state issuing a support order has CEJ as long as it remains the resident State of the obligor, the individual obligee, or the child for whose benefit the support order is issued. CEJ plays a prominent role in the area of order modification.

UIFSA provides for enforcement mechanisms such as direct income withholding if sent to an employer in an UIFSA State, administrative enforcement without registration of the other state's order, and registration for enforcement only.